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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 752 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BABU IMAMUDDIN SHAIKH

Versus

KN SHARMA, COMMISSIONER OF POLICE, SURAT CITY

Appearance:

MR MANSURI for MR RR MARSHALL for Petitioner
MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/04/2000

ORAL JUDGEMENT

#. The petitioner - Babbu @ Babu Imamuddin Shaikh, has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short) by virtue of an order passed by Commissioner of Police, Surat City, Surat, in exercise of

powers under Section 3(1) of the PASA Act, dated December 20, 1999.

#. The grounds of detention indicate that the detaining authority took into consideration 1 offence registered against the petitioner. The detaining authority also took into consideration the statements of two anonymous witnesses in respect of two incidents that occurred on October 31, 1999 and 21st November, 1999 and came to conclusion that the petitioner is a "bootlegger", that his activities are detrimental to public order, that fear expressed by the witnesses qua the petitioner was genuine and therefore, powers under section 9(2) of the PASA Act were exercised by the detaining authority by not disclosing identity of these witnesses.

#. The petition deserves to be allowed only on the ground of delay in forwarding the representation by the detaining authority. As per the statement made at bar by the learned advocate Mr. Mansuri, appearing for Mr. R.R.Marshall, learned advocate for the petitioner, representation made on behalf of the detenu dated 6th February, 2000 was received by the detaining authority on 14th February, 2000 which was forwarded to the government by the detaining authority on 19th February, 2000 as the detaining authority had become functus officio. There is delay of 6 days in forwarding the representation made on behalf of the detenu. There is no explanation on behalf of the detaining authority explaining the delay. 14th February to 19th February, 2000 were all working days. All that was required to be done by the authority was to forward the representation as it had become functus officio in light of the decision of a Division Bench of this Court in the case of Urmilaben Navnitlal Gandhi v. Commissioner of Police, Surat & others, 1994 (2) GLH 10 (UJ) 10 and Salim Pothiya Belia v. District Magistrate, Mehsana & ors., 1994 (2) GLH 10(UJ) 11. In view of the above-stated reasons, the petition deserves to be allowed.

#. The petition is allowed. Impugned order of detention dated 20th December, 1999 is hereby quashed and set aside. The detenu - Babbu @ Babu Imamuddin Shaikh, is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

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